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Client: 50588	Matter: 390
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DATE: October 26, 2005

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## COMMENTS:

Attached is a Combined Amendment and Petition for Extension of Time Under 37 CFR 1.136(a), Response, Declaration of Anthony F. Istvan Under 37 CFR 1.131, Declaration of James A. Billmaier Under 37 CFR 1.131, Declaration of Robert E. Novak Under 37 CFR 1.131, Exhibit A, and accompanying documents for Serial No. 09/877,696, filed June 8, 2001, entitled SYSTEMS AND METHODS FOR ACCESSING INTERACTIVE CONTENT VIA SYNTHETIC CHANNELS.

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OCT 27 2005

P18/REV02

OCT 26 2005

**COMBINED AMENDMENT & PETITION FOR EXTENSION OF  
TIME UNDER 37 CFR 1.136(a) (Large Entity)**Docket No.  
50588/390In Re Application Of: **Anthony F. Istvan et al.**

Application No. 09/877,696	Filing Date June 8, 2001	Examiner Andrew Y. Koenig	Customer No. 32641	Group Art Unit 2611	Confirmation No. 8903
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Invention: **SYSTEMS AND METHODS FOR ACCESSING INTERACTIVE CONTENT VIA SYNTHETIC CHANNELS**COMMISSIONER FOR PATENTS:

This is a combined amendment and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of May 27, 2005 in the above-identified application.  
Date

The requested extension is as follows (check time period desired):

☐ One month    ☒ Two months    ☐ Three months    ☐ Four months    ☐ Five months

from: August 27, 2005    until: October 27, 2005  
Date    Date

The fee for the amendment and extension of time has been calculated as shown below:

**CLAIMS AS AMENDED**

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	-	20 =	0	x \$50.00	\$0.00
INDEP. CLAIMS	-	3 =	0	x \$200.00	\$0.00
FEE FOR AMENDMENT					\$0.00
FEE FOR EXTENSION OF TIME					\$450.00
TOTAL FEE FOR AMENDMENT AND EXTENSION OF TIME					\$450.00

10/27/2005 HGBREH1 00000090 09877696

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P2&amp;LARGE/REV05

**COMBINED AMENDMENT & PETITION FOR EXTENSION OF  
TIME UNDER 37 CFR 1.136(a) (Large Entity)**Docket No.  
50588/390

The fee for the amendment and extension of time is to be paid as follows:

- ☐ A check in the amount of \_\_\_\_\_ for the amendment and extension of time is enclosed.
- ☐ Please charge Deposit Account No. \_\_\_\_\_ in the amount of \_\_\_\_\_
- ☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 502375
- ☒ Any additional filing fees required under 37 C.F.R. 1.16.
- ☐ Any patent application processing fees under 37 CFR 1.17.
- ☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. \_\_\_\_\_
- ☒ Payment by credit card. Form PTO-2038 is attached.

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

  
Signature

Kory D. Christensen  
Pat. Reg. No. 43,548  
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cc: Client

Dated: October 26, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on \_\_\_\_\_

(Date)

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P28LARGE/REV05

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Docket No. 005217.P049  
Stoel Rives Ref. 50588/390  
Digeo Ref. 39

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

**Anthony F. Istvan et al.**

Confirmation No. 8903

Application No. 09/877,696

Filed: June 8, 2001

For: **SYSTEMS AND METHODS FOR  
ACCESSING INTERACTIVE  
CONTENT VIA SYNTHETIC  
CHANNELS**

Group Art Unit: 2611

Examiner: Andrew Y. Koenig

Date: October 26, 2005

**RESPONSE**

**TO THE COMMISSIONER FOR PATENTS:**

This is a response to the Office Action mailed May 27, 2005.

Claims 1-39 are pending in the application. All claims stand rejected.

Claims 1-5, 7-15, 18-32, and 34-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over LaJole et al. ("LaJole") in view of Zustak et al. ("Zustak"). Claims 38 and 39 were rejected under 35 U.S.C. 103(a) as being unpatentable over LaJole in view of Zustak, Macrae et al. ("Macrae"), and Jerding et al. ("Jerding"). Claims 6 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over

LaJoie and Zustak in view of Jerding. Claim 33 was rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie and Zustak in view of Klosterman et al. ("Klosterman"). Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie and Zustak in view of Knudsen et al. ("Knudson").

The claimed invention relates to delivering interactive content via "synthetic channels," which mimic television channels within an Electronic Program Guide (EPG). While LaJoie arguably shows a channel table (101) including a channel "16" that can be mapped to "other services," there is absolutely no teaching or suggestion of displaying an indication of the other services as synthetic channels within an EPG. Indeed, LaJoie's EPG, as shown, for example, in FIGs. 16 and 17, only depicts regular television channels broadcasting traditional television programs. LaJoie's channel table is merely a data structure that is represented in memory. There is no indication that it is ever displayed on a user's screen, let alone in an EPG.

The Office Action apparently concurs with this reasoning, stating that "LaJoie is silent on communicating the interactive content elements via an electronic program guide (EPG) and providing selection of the content elements via an EPG." Office Action at page 3. However, the Office Action goes on to cite Zustak for this conspicuously missing element.

Declarations under 37 C.F.R. § 1.131 are filed concurrently herewith to overcome Zustak, which was filed on April 20, 2001, less than two months before the filing date of the present application. In the Declarations of James A. Billmaier, Anthony F. Istvan, and Robert E. Novak, the inventors declare that they conceived of the claimed invention prior to April 20, 2001. In support of the Declarations, a copy of

an e-mail dated prior to April 20, 2001, listing the aforementioned individuals as inventors in Digeo internal matter no. 39 (the present application), is attached hereto as Exhibit A.

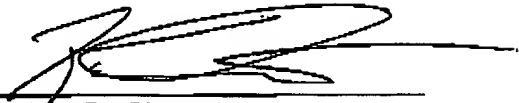
Because all of the rejections rely on Zustak for the claimed limitation of "communicating the interactive programming content, including the interactive content element and the corresponding synthetic channel, to a viewer via an electronic programming guide," as variously recited in independent claims 1, 11, 22, 28, 35 and 38, the removal of Zustak as a reference makes these claims patentably distinct. None of the other cited references, considered separately or as a whole, disclose or suggest the claimed use of an EPG to display synthetic channels. All other claims depend directly or indirectly from one of the foregoing claims and are therefore believed to be patentably distinct for at least the same reasons.

In view of the foregoing, the applicants respectfully submit that all pending claims herein are in condition for allowance. Early allowance of all pending claims is respectfully requested. If the Examiner finds any remaining impediment to the prompt allowance of all claims, the applicants respectfully request that the Examiner call the undersigned at the telephone number provided below.

Respectfully submitted,

Digeo, Inc.

By



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